

AN ORDINANCE BY
COUNCILMEMBER JIM MADDOX

06-O-2245

AS SUBSTITUTED BY PUBLIC SAFETY
AND LEGAL ADMINISTRATION COMMITTEE

**AN ORDINANCE TO AMEND CHAPTER 150 OF THE CODE OF
ORDINANCE OF THE CITY OF ATLANTA BY CREATING A
NEW SECTION 150-69 PERTAINING TO MOBILE TELEPHONE
USAGE WHILE OPERATING A MOTOR VEHICLE; AND FOR
OTHER PURPOSES**

WHEREAS, the use of mobile telephones has skyrocketed in recent years, with more than 224 million subscribers in the United States as of September 2006; and

WHEREAS, this increase has been accompanied by an increase in the number of individuals concurrently driving and talking on the cell phone. Recent estimates suggest that cell phone users spend 60% of their cell phone time while driving; and

WHEREAS, the use of a mobile telephone by an operator of a moving motor vehicle presents a distraction to the driver and, consequently an increased risk of collision during the period of the call; and

WHEREAS, the widespread use of mobile phones makes it impractical to ban the use of this important technology.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

SECTION 1: That Chapter 150 **General Rules of Vehicle Operation** of the Code of Ordinances of the City of Atlanta is hereby amended to create a new Section 150-69, to read:

Section 150-69. Contributing factor to a collision.

(a) For purposes of this section, the following term shall mean:

(1) "Mobile telephone" means cellular, analog, wireless, satellite or digital telephone capable of sending or receiving telephone messages without an access line for service.

(2) "Court" means the Municipal Court of the City of Atlanta.

(b) If a driver uses a mobile telephone while he or she operates a moving motor vehicle on the City's street system and it is proven that the mobile telephone's usage distracted the driver from safe operation of such a

vehicle and was a contributing factor in any collision resulting in death, physical injury, and/or property damage; then the Court is authorized to impose an additional fine up to \$200.00 in addition to any other penalty or punishment imposed by the Court for the violation of the underlying traffic offense. The total fine amount shall not exceed the maximum fine amount allowed by section 1-8 of this Code.

SECTION 2: That all ordinances and parts of ordinances in conflict herewith are hereby repealed.

Amended 11

AN ORDINANCE BY COUNCIL MEMBER JIM MADDOX

An Ordinance to amend Chapter 150 of the Code of Ordinance of the City of Atlanta by creating a new section 150-69 so as to require the use of a hands-free communications device with a mobile telephone by a person who may engage in a phone call while operating a motor vehicle in the City of Atlanta when the vehicle is in motion; and for other purposes.

WHEREAS, the use of mobile telephones has skyrocketed in recent years, with more than 224 million subscribers in the United States as of September 2006; and

WHEREAS, this increase has been accompanied by an increase in the number of individuals concurrently driving and talking on the cell phone. Recent estimates suggest that cell phone users spend 60% of their cell phone time while driving; and

WHEREAS, various research projects have concluded that aspects of using a cell phone may pose distractions for a driver and increase the potential for of serious road crashes; and

WHEREAS, the widespread use of mobile phones makes it impractical to ban the use of this important technology; and

WHEREAS, the idea of using hands free devices has been cautiously embraced by the cell phone industry. Both manufacturers of mobile phones and industry operators encourage their customers to use hands free devices for their own safety; and

WHEREAS, it is the sentiment of the Atlanta City Council that the requirement to use hands-free communications devices with mobile telephones while operating a motor vehicle will decrease the incidence of traffic accidents and thereby improve the safety on the city's arteries; and

WHEREAS, similar legislation has been adopted in several states, as well as cities throughout the United States.

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA,
GEORGIA as follows:**

SECTION 1: That Chapter 150 General Rules of Vehicle Operation of the Code of Ordinances of the City of Atlanta is hereby amended to create a new Section 150-69, to read:

Section 150-69. Require the use of a hands-free communications device with a mobile telephone while driving a motor vehicle.

(a) For purposes of this section, the following terms shall mean:

- (1) "Hands-free communications device" means a mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such mobile telephone, by which a user may engage in a call without the use of either hand, whether or not the use of either hand is necessary to activate, deactivate or initiate a function of such telephone.
- (2) "Mobile telephone" means a cellular, analog, wireless, satellite or digital telephone capable of sending or receiving telephone messages without an access line for service.
- (3) "Hand-held mobile telephone" means a mobile telephone with which a user engages in a call using at least one hand.
- (4) "Using" means holding a mobile telephone to, or in the immediate proximity of, the user's ear.
- (5) "Engages in a call" means talking into or listening on a hand-held mobile telephone, but shall not include holding a mobile telephone to activate, deactivate or initiate a function of such telephone.
- (6) "Immediate proximity" means that distance as permits the operator of a mobile telephone to hear telecommunications transmitted over such mobile telephone, but shall not require physical contact with such operator's ear.
- (7) "Public Works Vehicle" means a vehicle used by a publicly owned or managed facility or system for maintaining, distributing, transmitting, constructing or adapting public land or any building, structure, erection or improvement on public land pertaining to streets, water, storm water, or waste water. Such term shall not apply to an authorized emergency vehicle as defined in O.C.G.A 40-1-1(5).

- (8) "Public utility vehicle" means a vehicle owned or operated by a public utility corporation and used for the repair, maintenance, construction or engineering of public utility infrastructure.
- (b) Except as otherwise provided in this section, any person who may engage in a call on a mobile telephone while operating a motor vehicle upon any portion of the city's street system while such vehicle is in motion shall be required to use a hands-free communications device with a mobile telephone.
- (c) An operator of a motor vehicle who holds a mobile telephone to, or in the immediate proximity of his or her ear while such vehicle is in motion is presumed to be engaging in a call within the meaning of this section. The presumption established by this subsection is rebuttable by evidence tending to show that the operator was not engaged in a call.
- (d) The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a mobile telephone, unless otherwise provided by law or ordinance.
- (e) Subsection (b) of this section shall not apply to:
- (1) The use of a mobile telephone for the sole purpose of communicating with any of the following regarding an emergency situation: an emergency response operator; a hospital, physician's office or health clinic; an ambulance company or corps; a fire department, including an subdivision thereof; or a police department, including any subdivision thereof; or
 - (2) Any of the following persons while in the performance of their official duties: a police officer or peace officer; a member of a fire department; an operator of a public utility vehicle; or the operator of an authorized emergency vehicle as defined in O.C.G.A. 40-1-1(5); or
 - (3) The use of a hands-free communications device with a mobile telephone.
- (f) Any person who violates subsection (b) of this section shall be subject to a fine of \$50.00, provided however, that if a violation occurs at the time of a traffic accident, the driver shall be subject to an additional fine not to exceed \$200.00.
- (g) In order to notify and educate the public as to the enactment of this ordinance, a six (6) month grace period from the ordinance's effective date shall be imposed. During such six month (6) grace period, only warning citations shall be issued to persons violating subsection (b) of this section.

SECTION 2: That all ordinances and parts of ordinances in conflict herewith are hereby repealed.

Sunday, July 10, 2005
Chicago Sun-Times

ATTACHMENT

Chicago Sun-Times

Letter to the Editor:

On Friday, Chicago became the largest U.S. city to require drivers to use hands-free cell phone devices while behind the wheel. Violators face a \$50 fine, and drivers involved in an accident while talking on a cell phone will be fined \$200.

While no regulation can eliminate all dangerous driving habits, this ordinance sets an important safety standard. Hands-free cell phone devices eliminate blockage of peripheral vision and free both hands for maximum vehicle control. Studies show that drivers who use hands-free cell phone devices have improved steering accuracy, faster braking reaction time and less speed variation than drivers who use hand-held phones. The ordinance also increases safety by raising awareness about the dangers of cell-phone distracted driving and encourages drivers to engage in safe use practices.

More than 40 of my 49 City Council colleagues joined me in co-signing this important ordinance, and polls conducted by local media outlets have shown strong support for the measure among Chicagoans. Several other Illinois cities have followed Chicago's lead and are considering similar legislation. They join 37 states that have debated cell phone legislation just this year.

Worldwide, over 40 countries prohibit use of hand-held cell phones by drivers. Passage of a law requiring drivers to use hands-free cell phone devices in Japan resulted in a nearly 61 percent reduction in the number of cell phone-related accidents, according to government statistics.

Although reasonable people disagree about the appropriate way to address this issue, there is widespread recognition of the problem. According to a University of Michigan study released in March, eight in 10 cell phone users said cell phones pose a major safety hazard if used while driving. Studies have consistently shown that cell-phone use by drivers significantly increases the risk of traffic accidents.

I waged a nearly six-year campaign to pass the Chicago cell phone ordinances that took effect Friday and I will continue to study this issue. I urge the state Legislature to change the accident reporting form used by law enforcement officials so that we can accurately track cell phone involvement in crashes and assess the impact of hands-free legislation. I also have made a commitment to work with the Chicago Police Department to ensure that the ordinance is enforced, a proven key to ensuring its effectiveness.

As representatives of the people of Chicago, City Council members have a responsibility to take proactive steps to ensure public safety. I believe this ordinance sets an important safety standard that will help protect both drivers and pedestrians on our busy city streets.



Ald. Burton F. Natarus (42nd)

HANDS-FREE

- Mobile telephones have become an important part of American life. More than 224 million Americans use cell phones today according to the Cellular Telephone Industry Association (CTIA), and the number grows daily.
- Many people use cell phones while operating a motor vehicle.
- People do recognize that cell phones are one of many distractions for drivers, along with eating, listening to the radio, changing CDs and talking with passengers. In fact, one survey indicated that supervising children in the car is the most significant distraction of all.
- There are no known methods for reducing the impact these distractions: people are going to eat, listen to music, talk with friends and swat their kids while driving.
- The widespread use of mobile phones makes it impractical to ban the use of this important technology.
- However, there is a way to limit problems associated with using a cell phone without preventing its use: **require that drivers use cell phones with hands-free devices.**
- A poll conducted in June 2002 by the Carl Vinson Institute of Government at The University of Georgia showed that sixty-three percent (63%) of those polled believe that the use of hand-held phones while driving should be illegal (*Peach State Poll, June 2002: "Public Opinion in Georgia Regarding the Use of Cell Phones"*).
- A study by Design Science, a Philadelphia based design research firm, determined that when using a hands-free device or headset with a cell phone that:
 - Driving is improved with lane deviation, reaction time and speed deviation;
 - 71% of study participants steered more accurately when using hands-free;
 - 100% had faster brake reaction time when using hands-free, and
 - 92% maintained a more constant speed when using a hands-free device.
- The idea of using hands free devices has been emphasized by the cell phone industry. Both manufacturers of mobile phones and industry operators encourage their customers to use hands free devices for their own safety.
- Hands-free technology is readily available for cell phone users. There are dozens of hands-free manufacturers and even some automobile manufacturers who offer hands-free Bluetooth technology in their new cars including Acura, DaimlerChrysler, GM, Honda, Lexus and others.
- Many jurisdictions have recognized that we can change cell phone use behavior and reduce driver distractions. And we can give people the opportunity to put both hands where they belong: on the wheel.
 - California (enacted in September 2006), Connecticut, New Jersey, and New York have all enacted statewide laws that restrict the use of cell phones while driving unless they use a hands free device or headset.

- Chicago, IL; Detroit, MI; District of Columbia; Santa Fe, NM and over a dozen smaller jurisdictions have enacted laws that restrict the use of cell phones while driving.
 - Note: Miami-Dade County also enacted a law, but the law was preempted by a state law that prohibited localities from adopting restrictions.
 - Note: New York City enacted a law, but the law was superseded by a state law that restricts the use of cell phones while driving.
- The California Legislature passed and Governor Arnold Schwarzenegger signed into law, legislation (SB 1613) that prohibits a driver from using a wireless phone while operating a vehicle, unless the phone is specifically designed and configured to allow hands-free operation and is used in that manner. It levies a fine of \$20 on the first offense and \$50 for each subsequent offense. The bill goes into effect on July 1, 2008.

The bill received the support of Governor Arnold Schwarzenegger, the City of Los Angeles, Palm (maker of the Treo), Verizon Wireless, Nationwide Insurance Company, Kaiser Permanente and others.
- Another eleven states have enacted partial restrictions on cell phone use in vehicles.
- 49 foreign countries have enacted a variety of restrictions aimed at changing cell phone behavior and improving driver safety.
- It's time for the City of Atlanta to act and pass legislation that requires drivers to use hands-free devices for the safety of others as well as their own.

Support the use of Hands-Free Mobile Phones while operating a motor vehicle!

- The ordinance requires Atlanta drivers who choose to use their cell phone to do so using any of the readily available technology which allows them to drive with both hands on the wheel.
- The ordinance requires the use of a hands-free communications device with a cell phone while operating a motor vehicle when the vehicle is in motion.
- Would NOT apply to a person using the cell phone to contact an emergency response operator, a hospital, physician's office or health clinic, an ambulance company or corps, a fire department, a police department or law enforcement.
- Would NOT apply to a police officer or peace officer, a member of a fire department, an operator of a public utility vehicle or the operator of an authorized emergency vehicle.
- Levies a fine of \$50.00 per violation. If the violation occurs at the time of a traffic accident then an additional fine not to exceed \$200.00 is levied.
- Provides for a six (6) month grace period before the law would become effective to educate the public about the requirement.